

REMARKS

Status of the Claims

Claims pending in the above-identified application are Claims 1-17. Claims 1-14 are amended. Claims 15-17 are new. The amendments do not introduce new matter into the above-identified application.

Objections to the Specification

The specification was objected for legal phraseology in the abstract and failure to include the current status of the cross-referenced application. In view of the amendments to the specification, Applicants respectfully assert that the objections are obviated and request the withdrawal of said objections.

Objections to the Drawings

The drawings were objected to for failing to show every feature of the invention specified in the claims. Figures 6 and 7 are added to illustrate the coupon as claimed in Claims 9 and 10. No new matter has been added. In view of the new drawings, Applicants respectfully assert that the objections are obviated and request the withdrawal of said objections.

The Rejection Under 35 USC § 112

Claims 1-14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In view of the above amendments to Claims 1-14, Applicants respectfully assert that the rejections are obviated and request the withdrawal of said rejections.

Specifically, Claims 1, 3, 5, 11, and 13 are amended to recite that each container in the plurality of containers has a top end and a bottom end. Antecedent basis is corrected in claims 1, 4, 6, 11, 13, and 14. Further, Claims 1, 3, 5, and 11 are amended to identify first and second adjoining side panels. Claims 1, 2, 3, 5, 11, 12, and 13 are amended to eliminate double-inclusion of elements. Claims 2 and 12 are

amended to recite a second dispenser opening. Finally, Claim 7 is amended to remove the word “it” and Claim 14 is amended to correct grammar.

The Rejections Under 35 USC § 102

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,829,006 to *Spiegel* (“*Spiegel*”). Applicants respectfully assert that this rejection is obviated in view of the amendments to Claim 1 and the remarks below.

Spiegel discloses a carton for shipping and displaying containers, the carton having a dispenser in the top and side panel. The Examiner states that “the width of the dispenser opening in *Spiegel* is ‘sized to be slightly larger than the diameter of the bottom ends of from two to three of the containers’ as claimed.” Applicants respectfully submit that *Spiegel* discloses a container with a dispenser opening having a width slightly larger than the diameter of from two to three containers and a height slightly larger than from three to four containers.

The invention as claimed in Claim 1 is directed to a carton for carrying a plurality of containers comprising a dispenser opening with a height approximately equal to the bottom diameter of one container and a width equal to two to three times the bottom diameter of one container. The containers are dispensed from the dispenser opening by gravity feed. *Spiegel* does not teach or suggest a container having a dispenser opening with the dimensions as claimed. Furthermore, *Spiegel* teaches the dispensing of containers “which for attractive presentation or for other reasons must be displayed to potential customers in an upright position” (col. 1, lines 35-39) and therefore does not teach or suggest placing the carton on its side panel to dispense containers from the carton by gravity feed. Accordingly, Applicants respectfully assert that *Spiegel* does not teach each element of the claimed invention and request withdrawal of the rejection.

Claims 1 and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,331,289 to *Killy* (“*Killy* ‘289”). Applicants

respectfully assert that this rejection is obviated in view of the amendments to Claims 1 and 5 and the remarks below.

Killy '289 discloses a carton for packaging a plurality of containers, the container having a dispenser located in the top and side panel. The dispenser opening has a width slightly larger than the diameter of from two to three containers and a height slightly larger than the diameter of from three to four containers. As stated above, Claim 1 is directed to a carton comprising a dispenser opening with a height approximately equal to the bottom diameter of one container and a width equal to two to three times the bottom diameter of one container. The containers are dispensed through the dispenser opening by gravity feed. *Killy* '289 does not teach or suggest a container having a dispenser opening with the dimensions as claimed. Furthermore, *Killy* '289 does not teach or suggest dispensing the containers from the carton by gravity feed. Accordingly, Applicants respectfully assert that *Killy* '289 does not teach each element of Claims 1 and 5 and request withdrawal of the rejection.

Claims 1, 2, and 8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,318,474 to *Hasegawa* ("*Hasegawa*"). Applicants respectfully assert that this rejection is obviated in view of the amendments to Claims 1, 2 and 8 and the remarks below.

Hasegawa discloses a carton for carrying a plurality of containers, the container having a dispenser located in the top and side panel. The Examiner states that "the width of the dispenser opening in *Hasegawa* is 'sized to be slightly larger than the diameter of the bottom ends of from two to three containers' as claimed." As stated above, Claim 1 is directed to a carton comprising a dispenser opening with a height approximately equal to the bottom diameter of one container and a width equal to two to three times the bottom diameter of one container. The containers are dispensed through the dispenser opening by gravity feed. *Hasegawa* does not teach or suggest dispensing containers by gravity feed. Accordingly, Applicants respectfully assert that *Hasegawa* does not teach each element of Claims 1, 2, and 8 and request withdrawal of the rejection.

The Rejections Under 35 USC § 103

Claims 6 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Killy* '289 in view of U.S. Patent No. 4,396,143 to *Killy* ("*Killy* '143"). Applicants respectfully assert that this rejection has been obviated in view of the amendments to Claims 6 and 13 and the comments below.

The Examiner states that *Killy* '289 "discloses all structure of the claimed carton except grasping means comprising two tabs from by V-shaped folding lines...[and] *Killy* '143 teaches that it is known to make grasping means comprising two tabs...formed by V-shaped folding lines." *Killy* '289 is discussed above. *Killy* '143 describes a carton for carrying multiple articles with a dispenser opening having a height approximately equal to the diameter of one container and a width approximately equal to the height of one container.

The invention as claimed in Claim 6 is directed to a carton comprising a dispenser opening having a height approximately equal to the bottom diameter of one container and a width approximately equal to three times the bottom diameter of one container, a dispenser flap for closing the dispenser opening, and means for grasping the dispenser flap comprising V-shaped fold lines in the first adjoining side panel. The containers are dispensed through the dispenser opening by gravity feed.

The invention as claimed in Claim 13 is directed to a carton comprising a dispenser opening having a height approximately equal to the bottom diameter of one container and a width approximately equal to three times the bottom diameter of one container, a dispenser flap for closing the dispenser opening, and means for grasping the dispenser flap comprising V-shaped fold lines in the first adjoining side panel.

Applicants reassert the argument above regarding *Killy* '289. Furthermore, Applicants submit that *Killy* '143 does not teach or suggest a container having a dispenser opening with dimensions as claimed in Claims 6 and 13. Thus, *Killy* '143 fails to remedy the shortcomings of *Killy* '289. Accordingly, Applicants respectfully assert that the combination of *Killy* '289 and *Killy* '143 does not teach or

suggest the invention as claimed in Claims 6 and 13 and request that the rejection be withdrawn.

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over any one of *Spiegel*, *Hasegawa*, or *Killy* '289 in view of U.S. Patent No. 4,620,664 to *Kaufman et al.* ("*Kaufman*"). Applicants respectfully assert that this rejection is obviated in view of the amendments to Claim 9 and the comments below.

The Examiner states that "[e]ach of *Spiegel*, *Hasegawa*, and *Killy* '289 discloses all structure of the claimed carton except a coupon attached to the inside of the dispenser flap. *Kaufman et al* teaches that it is known to attach a coupon on the inside of a dispensing flap." *Spiegel*, *Hasegawa*, and *Killy* '289 are discussed above. *Kaufman* describes a carton with a coupon attached to the inside of a dispensing flap.

The invention as claimed in Claim 9 is directed to a carton for carrying containers, the carton having a dispenser opening with a height approximately equal to the bottom diameter of one container and a width equal to two to three times the bottom diameter of one container, and the containers being dispensed through the dispenser opening by gravity feed. The dispenser opening is closed by a dispenser flap and a coupon is attached to the inside of the dispenser flap. *Kaufman* does not teach or suggest a container with a dispenser opening with a height approximately equal to the bottom diameter of one container and a width equal to two to three times the bottom diameter of one container. As discussed above, *Spiegel*, *Hasegawa*, and *Killy* '289 do not teach or suggest a carton having a dispenser opening with dimensions as claimed through which containers are dispensed by gravity feed. Accordingly, Applicants submit that *Kaufman* in combination with any of *Spiegel*, *Hasegawa*, and *Killy* '289 does not teach every element of the invention as claimed in Claim 9 and request that the rejection be withdrawn.

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over any one of *Spiegel*, *Hasegawa*, or *Killy* '289 in view of U.S. Patent No. 4,426,035 to *Dieckow* ("*Dieckow*"). Applicants respectfully assert that this rejection is obviated in view of the amendments to Claim 10 and the comments below.

The Examiner states that “[e]ach of *Spiegel, Hasegawa, and Killy* ‘289 discloses all structure of the claimed carton except a coupon attached to the outside of the dispenser flap. *Dieckow* teaches that it is known to attach a coupon to the outside of a closure flap...” *Spiegel, Hasegawa, and Killy* ‘289 are discussed above. *Dieckow* describes a recloseable bag package with a coupon attached to the outside of a closure flap used to open the package.

The invention as claimed in Claim 10 is directed to a carton for carrying containers, the carton having a dispenser opening with a height approximately equal to the bottom diameter of one container and a width equal to two to three times the bottom diameter of one container, and the containers being dispensed through the dispenser opening by gravity feed. The dispenser opening is closed by a dispenser flap and a coupon is attached to the inside of the dispenser flap. *Dieckow* does not teach or suggest a container with a dispenser opening with a height approximately equal to the bottom diameter of one container and a width equal to two to three times the bottom diameter of one container. As discussed above, *Spiegel, Hasegawa, and Killy* ‘289 do not teach or suggest a carton having a dispenser opening with dimensions as claimed through which containers are dispensed by gravity feed. Accordingly, Applicants submit that *Dieckow* in combination with any of *Spiegel, Hasegawa, and Killy* ‘289 does not teach every element of the invention as claimed in Claim 10 and request that the rejection be withdrawn.

Comments on Allowable Subject Matter

Applicants note that Claims 11 and 12 are allowable of the prior art if amended to overcome the rejections under 35 U.S.C. § 112, second paragraph. Applicants submit that Claims 11 and 12 as amended are definite and request allowance of the claims. Furthermore, Applicants submit that amended Claims 1-10 and 13-14 and new Claims 15-17 are also definite and allowable over the art.

Applicants thank the Examiner for his careful review of the claims.

Conclusion

In view of the above remarks, Applicants respectfully assert that the rejection of the claims as set forth in the Office Action has been addressed and overcome. Applicants further respectfully assert that all claims are in condition for allowance and requests that an early notice of allowance be issued. If issues may be resolved through Examiner's Amendment, or clarified in any manner, a call to the undersigned attorney at (404) 879-2433 is respectfully requested.

No fees are believed due, however, the Commissioner is hereby authorized to charge any deficiencies which may be required, or credit any overpayment to Deposit Account No. 09-0528.

Respectfully submitted,

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